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Stephen T. Murphy
The Procter & Gamble Company
Winton Hill Technical Center
6100 Center Hill Avenue
Cincinnati, OH 45224

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OFFICE OF PETITIONS

In re Application of
Robert Nurse
Application No. 09/755,408
Filed: January 5, 2001
Attorney Docket No. 7903M

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DECISION ON PETITION

This is a decision on the petition filed September 20, 2004, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed August 5, 2003. This Office action set a shortened statutory period for reply of three (3) months. By petition filed February 26, 2004, applicant requested withdrawal of the abandoned status of the application. By decision mailed August 18, 2004, the petition was dismissed. It was stated that the record established that an amendment was timely filed with a certificate of mailing dated October 6, 2003; however, the amendment was determined by the examiner not to place the application in condition for allowance.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until

the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition does not satisfy requirement (1) above. With this petition, petitioner stated that the required reply was previously filed on October 6, 2003. However, as previously stated and for the reasons set forth therein, on decision mailed August 18, 2004, applicant was advised that the response considered timely filed with a certificate of mailing dated October 6, 2003, did not place the application in condition for allowance.

The proposed reply required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law), (2) an amendment that prima facie places the application in condition for allowance, (3) the filing of a continuing application, (4) a request for continuing examination under §1.114, or (5) if applicable, a §1.129(a) submission.

A required reply must be submitted with any renewed petition if the application is to be revived.

The petition fee has been charged to Deposit Account No. 16-2480, as authorized.

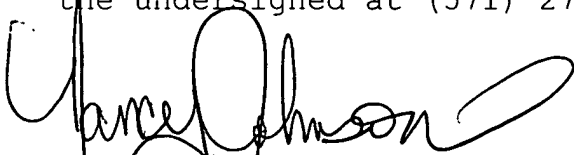
Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions